

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
(BROOKLYN)**

IN RE: EXACTECH POLYETHYLENE
ORTHOPEDIC PRODUCTS LIABILITY
LITIGATION

) MDL No. 3044 (NGG) (MMH)
)
)
) Case No.: 1:22-md-3044-NGG-MMH
)
) District Judge Nicholas G. Garaufis
) Magistrate Judge Marcia M. Henry
)

THIS DOCUMENT RELATES TO:
ALL CASES AGAINST TPG DEFENDANTS

**DECLARATION OF MARK PREMO-HOPKINS, P.C., IN SUPPORT OF
DEFENDANTS TPG INC.; OSTEON HOLDINGS, INC.; OSTEON MERGER SUB,
INC.; AND OSTEON INTERMEDIATE HOLDINGS II, INC.'s MOTION TO DISMISS**

I, Mark Premo-Hopkins, pursuant to 28 U.S.C. § 1746, hereby declare under penalty of perjury the following to be true and correct:

1. I am an attorney licensed to practice law in the State of Illinois and have been admitted *pro hac vice* by this Court. I am also a partner of the law firm Kirkland & Ellis LLP, and one of the attorneys representing Defendants TPG Inc.; Osteon Holdings, Inc.; Osteon Merger Sub, Inc.; and Osteon Intermediate Holdings II, Inc. (collectively, "TPG") in the above-captioned matter.

2. I submit this Declaration in support of TPG's Notice of Motion to Dismiss and Motion to Dismiss and Memorandum in Support served via electronic mail on the individuals designated as Plaintiffs' Co-Lead Counsel and Liaison Counsel (ECF Nos. 46, 269) pursuant to the Court's Individual Rule V(B) and the Court's May 19, 2023 Order.

3. Attached as **Appendix A** is a state-by-state choice-of-law analysis for cases against TPG that have been consolidated into the MDL as of June 6, 2023.

4. Attached as **Appendix B** is a list of all cases against TPG that have been consolidated into the MDL as of June 6, 2023.

5. Attached as **Exhibit 1** is a true and accurate copy of TPG Inc.'s Form 10-K for the fiscal year ending December 31, 2022 filed with the United States Securities and Exchange Commission ("SEC").

6. Attached as **Exhibit 2** is a true and accurate copy of the Agreement and Plan for Merger between Exactech, Inc., Osteon Holdings, L.P. (now Osteon Holdings, Inc.), and Osteon Merger Sub, Inc. that was referenced throughout Plaintiffs' Amended Master Personal Injury Complaint ("Amended Complaint") (ECF No. 164) and filed with the SEC as Exhibit 2.1 to Exactech, Inc.'s Form 8-K dated October 22, 2017.

7. Attached as **Exhibit 3** is a true and accurate copy of the Rollover and Voting Agreement between Osteon Holdings, L.P. (now Osteon Holdings, Inc.) and certain Exactech, Inc. shareholders that was referenced throughout Plaintiffs' Amended Complaint and filed with the SEC as Exhibit 99.2 to Exactech, Inc.'s Form 8-K dated October 22, 2017.

8. Attached as **Exhibit 4** is a true and accurate copy of Exactech, Inc.'s January 16, 2018 Proxy Statement that was referenced throughout Plaintiffs' Amended Complaint and filed with the SEC as Exactech, Inc.'s Schedule 14A dated January 16, 2018.

9. Attached as **Exhibit 5** is a true and accurate copy of the transcript for the May 19, 2023 Pre-Motion Conference.

Dated: Chicago, Illinois
June 9, 2023

KIRKLAND AND ELLIS LLP

By: /s/ Mark Premo-Hopkins

Mark Premo-Hopkins (*pro hac vice*)

KIRKLAND AND ELLIS LLP

300 North LaSalle Street

Chicago, Illinois 60654

+1 (312) 862-2000

+1 (312) 862-2200

mark.premohopkins@kirkland.com

Counsel for TPG Defendants

PROOF OF SERVICE

I hereby certify that on June 9, 2023, I caused a copy of the Declaration of Mark Premo-Hopkins, P.C., In Support of Defendants TPG Inc.; Osteon Holdings, Inc.; Osteon Merger Sub, Inc.; and Osteon Intermediate Holdings II, Inc.'s Motion to Dismiss to be served via electronic mail on the individuals designated as Plaintiffs' Co-Lead Counsel and Liaison Counsel (ECF Nos. 46, 269).

Dated: June 9, 2023

/s/ Jay P. Lefkowitz

Jay P. Lefkowitz